



ATTORNEYS AT LAW

Mark R. Kook
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December 30, 2009

By ECF Filing

Magistrate Judge A. Kathleen Tomlinson
United States District Court – Eastern District New York
100 Federal Plaza, Courtroom 910
Central Islip, New York 11722-9014

Re: Peter Capone, et al. v. Mark Goldman, et al. 09 Civ. 1208(SJF)

Dear Mag. Judge Tomlinson:

My firm represents the plaintiffs in this action.

I will not reply in this letter to the various claims made by Mark Goldman in his letters and filings regarding my clients and me. I do want the Court to note that when Mr. Goldman was deposed at the Nassau Correctional Center, on November 10, 2009, pursuant to an Order issued by Judge Robert E. Grossman in one of the Bankruptcy Court Adversary Proceedings, Mr. Goldman refused to answer any questions concerning his admitted criminal fraud, instead claiming the Fifth Amendment privilege.

However, I am writing again to request the Court's guidance as to how to proceed with respect to plaintiffs' motion to serve a Verified Second Amended Complaint, as set forth in my prior letter, dated December 15, 2009.

As set forth in my prior letter, plaintiffs timely served a motion to serve a Second Amended Complaint on December 7, 2009. After the parties received Your Honor's Order, dated December 14, 2009, defendant Jeffrey Daniels advised that he was withdrawing his objection to plaintiff's serving the amended pleading, and, as set forth in my letter dated December 14, 2009, I was intending to e-file the Second Amended Complaint.

However, on December 15, after defendant Mark Goldman e-filed a letter and certain pleadings, Your Honor issued an Endorsed Order stating that "Plaintiffs' counsel is REQUIRED to file a Stipulation executed by all parties confirming their consent to the filing of a Second Amended Complaint before that pleading is accepted for filing." Accordingly, I respectfully request a telephone conference to determine whether Your Honor directs that I need to obtain Mr. Goldman's signature on a Stipulation, and, if that is not possible, whether I need to re-serve the motion upon Mr. Goldman.

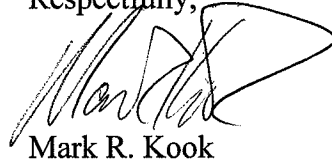
Magistrate Judge A. Kathleen Tomlinson

December 30, 2009

Page 2

I thank Your Honor for consideration of this request.

Respectfully,

A handwritten signature in black ink, appearing to read 'Mark R. Kook', with a large, sweeping flourish at the end.

Mark R. Kook

cc: Jeffrey C. Daniels, Esq. (by e-mail)
Fred S. Kantrow, Esq. (by e-mail)
Mark Goldman (by mail)